

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

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IN RE:

Simaris Diaz

CASE NO. 05-23732 jcn
CHAPTER 13

DEBTOR

JUDGE: John C. Ninfo, II

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ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY

Upon the Application dated November 16, 2005, (the "Application") of Chase Home Finance LLC (the "Movant"), by its attorneys, Rosicki, Rosicki & Associates, P.C., seeking an Order: (i) modifying and terminating the automatic stay to permit the Movant to exercise all of its rights and remedies with respect to certain collateral consisting of the real property known as 132 Cherry Road, Rochester, New York 14612 (the "Premises"); (ii) waiving the ten (10) day stay pursuant to F.R.B.P. 4001(a)(3), and (iii) granting Movant such other and further relief as the Court deems just and proper; and

The Application having come before this Court to be heard on December 14, 2005; and no opposition to the relief requested having been heard; and in consideration of the foregoing, and upon the affidavit of service filed with the Court, the record made at the hearing on the Application and the decision reached at the conclusion thereof; and after due deliberation, the relief requested appearing reasonable, proper and warranted in fact and by law under Section 362(d) of the Code to permit Movant to exercise all of its rights and remedies under applicable law with respect to the Premises, it is hereby

ORDERED that the Application of Movant is granted modifying the automatic stay to allow Movant, its successors and/or assigns, to proceed with a foreclosure action and eviction proceeding with respect to the Premises; and it is further

ORDERED that Movant may obtain a determination of any deficiency due it, if allowed under state law, and may file a proof of claim as an unsecured creditor for any such deficiency awarded therein, and it is further

ORDERED that the case trustee shall be notified of any surplus monies from the sale of the Premises; and it is further

ORDERED that the stay invoked pursuant to F.R.B.P. 4001(a)(3) is waived and this order is effective upon the signing of this order.

Dated: , New York
 , 2005

Hon. John C. Ninfo, II
Chief United States Bankruptcy Judge

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